

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE  
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October 14, 2022

**Agenda ID #21046**  
**Ratesetting**

TO PARTIES OF RECORD IN APPLICATION 21-01-009:

This is the proposed decision of Administrative Law Judges Seaneen M. Wilson and Susan Lee. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's November 17, 2022 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4).

/s/ MICHELLE COOKE

Michelle Cooke

Acting Chief

Administrative Law Judge

MLC:jnf  
Attachment

Decision **PROPOSED DECISION OF ALJ WILSON AND ALJ LEE**  
**(Mailed 10/14/2022)**

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Wavelength Internet, LLC  
for a Certificate of Public Convenience  
and Necessity to Operate as a  
Competitive Local Carrier ("CLC") in  
Order to Provide Resold and Full  
Facilities-Based Broadband Internet and  
Voice-Over-IP Service and Designation as  
an Eligible Telecommunications Carrier.

Application 21-01-009

**DECISION GRANTING WAVELENGTH INTERNET, LLCA CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE FULL  
FACILITIES-BASED AND RESOLD COMPETITIVE LOCAL EXCHANGE  
SERVICES AND DENYING DESIGNATION AS AN ELIGIBLE  
TELECOMMUNICATIONS CARRIER**

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**DECISION GRANTING WAVELENGTH INTERNET, LLC A CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE FULL  
FACILITIES-BASED AND RESOLD COMPETITIVE LOCAL EXCHANGE  
SERVICES AND DENYING DESIGNATION AS AN ELIGIBLE  
TELECOMMUNICATIONS CARRIER**

**Summary**

Pursuant to Public Utilities Code § 1001, we grant Wavelength a certificate of public convenience and necessity to operate as a full facilities-based and resold competitive local exchange carrier and offer broadband internet and interconnected voice-over-internet protocol services, in the service territories of AT&T California and Frontier Communications,<sup>1</sup> subject to the terms and conditions set forth in the Ordering Paragraphs. We deny Wavelength's request for designation as an Eligible Telecommunications Carrier in California at this time.

This proceeding is closed.

**1. Background**

On January 7, 2021, Wavelength Internet, LLC (Wavelength) filed Application 21-01-009, in which it requested authority for a Certificate of Public Convenience and Necessity (CPCN) to operate as a competitive local carrier in order to provide resold and full-facilities broadband internet and interconnected voice-over-internet protocol (VoIP) service and designation as an Eligible Telecommunications Carrier (ETC), in the service territories of AT&T California (AT&T) and Verizon California, Inc. (Verizon).

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<sup>1</sup> Previously Verizon California, Inc.

Verizon was purchased by Frontier Communications (Frontier) in 2016. Given this transfer, the service territory referred to by Applicant as Verizon in its application is identified as Frontier herein.

Wavelength proposes to offer broadband internet access and fixed interconnected VoIP service to residential, public sector and commercial locations in some of the most remote, difficult-to-serve regions of Southern California. Wavelength proposes that to make available gigabit-speed Internet access service in areas that are currently underserved or unserved.

Wavelength is a South Dakota limited liability company and has submitted a foreign registration to operate in California. Wavelength's principal place of business is located at 1612 North 20<sup>th</sup> Street, Aberdeen, South Dakota 57401.

On March 12, 2021, the Administrative Law Judge (ALJ) issued a ruling denying Applicant's request for confidential treatment of Exhibits E, F, and G; and request for information regarding the confidential Exhibits E, F, and G. On March 24, 2021, Wavelength filed a new motion for confidential treatment of Exhibits E, F, and G; and responded to the request for information regarding confidential Exhibits E, F, and G.

On March 12, 2021, the ALJ issued a ruling ordering that Wavelength's request for designation for ETC status be addressed in the current proceeding rather than requiring Wavelength to separately submit the request to the Communications Division through the normal Advice Letter process. The ALJ also requested additional information necessary to evaluate the request for ETC designation.

On March 22, 2021, the ALJ issued a ruling setting a telephonic prehearing conference (PHC) for April 30, 2021. On April 30, 2021, a telephonic PHC was held to address the issues of law and fact, determine the need for hearing, set the

schedule for resolving the matter, and address other matters as necessary. After considering the Application, responses to rulings, and discussion at the PHC, the Commission determined the issues and initial schedule of the proceeding to be set forth in this scoping memo.

The ALJ issued rulings requesting information on March 12 and 24, 2021, April 28, 2021, May 25, 2021 and June 2, 2021. Wavelength responded on: 1) March 24, 2021 to the March 12, 2021 ruling; 2) April 7, 14, and 23, 2021 to the March 24, 2021 ruling; 3) May 7, 2021 to the April 28, 2021 ruling; 4) May 27, 2021 to the May 25, 2021 ruling; and 5) June 11, 2021 to the June 2, 2021 ruling.

All assigned Commissioner and ALJ rulings are affirmed herein.

## **2. Jurisdiction**

Public Utilities (Pub. Util.) Code § 216(a) defines the term “public utility” to include a “telephone corporation,” which in turn is defined in Pub. Util. Code § 234(a) as “every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state.”

Wavelength provided certification that it is a Common Carrier as defined by § 153 of the Federal Telecommunications Act of 1996 (Act) eligible to interconnect with the public switched telephone network pursuant to § 251 and § 252 of the Act, and that if granted a CPCN, it will operate as a telephone corporation under Pub. Util. Code § 234(a), and obey the Pub. Util. Code and all Commission rules, decisions, and orders applicable to telephone corporations.

Wavelength proposes to offer broadband internet access and fixed Interconnected VoIP service to residential, public sector and commercial locations in some of the most remote, difficult-to-serve regions of Southern California. Applicant will make available gigabit-speed Internet access service in areas that are currently underserved or unserved.

Wavelength is a telephone corporation and a public utility subject to our jurisdiction.

The Commission has authority to grant requests for designation of ETC status, pursuant to Resolution T-17002; and in accordance with the federal delegation of authority set forth in the Act in 47 United States Code (U.S.C.) § 214, which states in part:

A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph [214(e)] (1) as an eligible telecommunications carrier for a service area designated by the State commission.

ETC status is normally requested from this Commission via an advice letter submitted to the Communications Division. In order to request ETC status, the applicant must hold a CPCN. As detailed in a ruling dated March 12, 2021, the assigned ALJ authorized Wavelength to request both a CPCN as well as ETC status in the instant application. This limited process was made available to Rural Digital Opportunity Fund (RDOF) Phase I recipients to facilitate quicker review of ETC designation requests.

### **3. Full Facilities-Based CPCN**

In its application, Wavelength requests authorization for a CPCN to provide full facilities-based and resold competitive local exchange services. A Proponent's Environmental Assessment (PEA) is required for a full facilities-based CPCN. Wavelength provided a PEA in its June 11, 2021, response to an ALJ ruling requesting information.

In its PEA, Wavelength's proposed communications network will consist primarily of wireless equipment mounted upon support structures (*i.e.*, poles). Connection between poles will be performed wirelessly or via fiber optic cables, using leased existing fiber networks or running of fiber in existing utility



conduits. Planned construction includes: 1) installation of fiber optic and wireless equipment; 2) replacement of existing or installation of new poles; and 3) micro-trenching or boring of underground conduit. The majority of any new construction is expected to occur within public rights of way or on federally managed lands.

#### **4. California Environmental Quality Act (CEQA)**

Pursuant to CEQA and Rule 2.4<sup>2</sup> of the Commission's Rules of Practice and Procedure (Rule), the Commission examines projects to determine any potential environmental impacts in order that adverse effects are avoided and environmental quality is restored or enhanced to the fullest extent possible under CEQA.

In its PEA, Wavelength's proposed construction activities will generally include the installation of: 1) fixed wireless broadband technology, including both point-to-point and point-to-multipoint technology; 2) point-to-point microwave radio communication for back haul connectivity; 3) fiber optic cables; and 4) replacement of existing and installation of new poles.

These activities fall within the following classes of projects that are exempt from CEQA and for which neither an Environmental Impact Report nor a Negative Declaration is required.

- Class 1 Exemption: operation, repair, maintenance, leasing or minor alteration of existing public or private structures and facilities, with negligible or no expansion of an existing use. This includes existing facilities used to provide public utility services. (14 CCR § 15301.)
- Class 2 Exemption: replacement or reconstruction of existing structures and facilities where the new structure

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<sup>2</sup> Unless otherwise noted, items labeled "Rule" are from the Commission's Rules of Practice and Procedure.

will be located in the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. (14 CCR § 15302.)

- Class 3 Exemption: construction including water main, sewage, electrical, gas and other utility extensions of reasonable length to serve such construction. This includes the construction of limited numbers of new small facilities or utility extensions. (14 CCR § 15303.)
- Class 4 Exemption: minor public or private alterations in the condition of land, water, and/or vegetation which do not involve the removal of healthy, mature, scenic trees except for forestry and agricultural purposes. Among other things, this includes filling of earth into previously excavated land with material compatible with the natural features of the site, and minor trenching and backfilling where the surface is restored. (14 CCR § 304.)

Wavelength proposes that its construction would qualify for Class 1, 2, 3, and/or 4 exemptions. Wavelength proposes to: 1) attach fiber optic cabling to poles, which may require short extensions of existing fiber optic cable and/or conduit; and 2) leasing capacity in existing fiber networks wherever feasible; 3) run fiber in existing utility conduits; and 4) undertake relatively minor construction activities, such as limited installation of fiber optic facilities (either aerial or underground), installation of new or replacement utility poles, installation of underground vaults, and the like. Most construction is planned to occur within the public rights of way or on federally managed lands, but may also take place on private property. Exemption of these activities is consistent with Commission precedent. Wavelength's proposed new construction activities

are similar to those undertaken by other carriers that we have decided are categorically exempt from CEQA.<sup>3</sup>

Wavelength requests approval to utilize a procedure for expedited review of its projects once it is aware of a specific site(s) in which it plans construction. The proposed procedure tracks the expedited review procedure that we have approved for other carriers. Such a process will expedite CEQA review and is appropriate for the type of construction outlined here, which will be categorically exempt. By establishing this expedited review process, we are able to review the information on a specific project to confirm that it is categorically exempt from CEQA or to explain why further environmental review is required. At the same time, the proposed CEQA review process will enable Wavelength to undertake construction of its projects in an efficient manner without experiencing delays caused by an unnecessarily protracted CEQA review.

Similar to the procedure approved for other carriers, the following procedure will be used to obtain Commission approval of Wavelength's claimed CEQA exemptions for proposed construction projects:

- Wavelength will provide the Commission's Energy Division with:
  - A detailed description of the proposed project, including:
    - Customer(s) to be served;
    - The precise location of the proposed construction project; and
    - Regional and local site maps.
  - A description of the environmental setting, to include at a minimum:

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<sup>3</sup> Decision (D.) 06-04-063 (ClearLinux Network Corporation); D.06-04-067 (CA CLEC LLC).

- Cultural, historical, and paleontological resources;
- Biological resources; and
- Current land use and zoning.
- A construction workplan, to include:
  - Commission Preconstruction Survey Checklist – Archaeological Resources;
  - Commission Preconstruction Survey Checklist – Biological Resources;
  - A detailed schedule of construction activities, including site restoration activities;
  - A description of construction/installation techniques;
  - A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
- A list of permits required for the proposed project.
- A statement of the CEQA exemption(s) applicable to the proposed project; and
- Documentation and factual evidence sufficient to support a finding that the claimed exemption(s) is (are) applicable.
- The Energy Division will review Wavelength's submission for the proposed project to confirm that the claimed exemption(s) from CEQA are applicable.
- Within 21 days from the date of Wavelength's submittal, the Energy Division will issue either:
  - A Notice to Proceed (NTP) and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research, or
  - A letter of denial stating the specific reasons why the claimed exemption(s) are not applicable to the proposed project.

We have reviewed the application and find that:

- Wavelength's proposed facilities-based project activities are very limited;
- These activities would in almost all circumstances be very likely to qualify for an exemption from CEQA; and
- The proposed process for reviewing the applicability of CEQA exemptions to Wavelength's facilities-based projects is not only adequate for the Commission's purposes as CEQA Lead Agency, but is also in the public interest because it enables Wavelength to respond in a timely manner to requests for service without the delay or burden of a full CEQA review when such review is unnecessary.

We therefore approve the above referenced process for Commission review of claimed CEQA exemptions for construction projects undertaken pursuant to Wavelength's full facilities-based authority, based on the specific facts of this case with the following modifications related to the Commission's Energy Division review and approval or disapproval of the proposed exemptions.

If the Energy Division disapproves Wavelength's claimed CEQA exemption(s) and issues a letter of denial to Wavelength, it must either re-design the specific project and facilities and then reapply for a finding of exemption from CEQA, or file a formal application with the Commission seeking the requisite approval and full CEQA review, before commencing any construction activities.

Wavelength shall not perform any full facilities-based construction activities without first obtaining an NTP from the Energy Division or authorization by the Commission after the requisite environmental review.

We have previously determined that the public convenience and necessity require that competition be allowed in the provision of competitive local

exchange service, Rulemaking 95-04-043/Investigation 95-04-044. Granting this application will benefit the public interest by expanding the availability of technologically advanced telecommunications services within the state.

## **5. Financial Qualifications**

To be granted a CPCN, an applicant for authority to provide full facilities-based and resold services must demonstrate that it has a minimum of \$100,000 cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up expenses.<sup>4</sup> In its April 23, 2021 response to an ALJ ruling, Wavelength provided a line of credit for \$100,000. Since Wavelength has provided documentation that it possesses a minimum of \$100,000 that is reasonably liquid and available, it has demonstrated that it has sufficient funds to meet its start-up expenses and has fulfilled this requirement. Wavelength's financial documentation will be subject to verification and review by the Commission for one year to ensure that such funds are available.

In addition to demonstrating financial fitness, Wavelength must also demonstrate it has an additional \$25,000 or an amount equal to deposits required by AT&T and Frontier. In its March 24, 2021 response, Wavelength affirmatively states that no deposits are necessary. Therefore, no additional resources are required at this time to cover deposits.

## **6. Technical Qualifications**

To be granted a CPCN for authority to provide competitive local exchange and interexchange service, an applicant must make a reasonable showing of

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<sup>4</sup> The financial requirement for Competitive Local Exchange Carriers (CLEC) is contained in D.95-12-056, Appendix C. The financial requirement for Non-Dominant Interexchange Carriers (NDIEC) is contained in D.91-10-041.

managerial and technical expertise in telecommunications or a related business.<sup>5</sup> Wavelength supplied biographical information on its management in Exhibit H to its application that demonstrates it has sufficient expertise and training to operate as a telecommunications provider.

In Exhibit I to the application, Wavelength verified that no one associated with or employed by Wavelength as an affiliate, officer, director, partner, or owner of more than 10 percent of Wavelength, or anyone acting in a management capacity for Wavelength:

- (a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been (to his/her knowledge) the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of §§ 17000 *et seq.*, §§ 17200 *et seq.*, or §§ 17500 *et seq.* of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; or (g) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; or (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary

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<sup>5</sup> D.95-12-056 at Appendix C, Rule 4.A.

forfeitures in resolution of any action by any regulatory body, agency, or attorney general.<sup>6</sup>

Also, to the best of Wavelength's knowledge, neither Wavelength, or any affiliate, officer, director, partner, nor owner of more than 10% of Wavelength, or any person acting in such capacity whether or not formally appointed, is being, or has been investigated by the Federal Communications Commission or any law enforcement or regulatory agency for failure to comply with any law, rule or order.<sup>7</sup>

For the above reasons, we find that Wavelength is in compliance with the requirements of D.13-05-035.

## **7. Tariffs**

Wavelength requests an exemption from tariff requirements pursuant to D.98-08-031. Wavelength agrees to: 1) abide by the requirements and consumer protection rules set forth in D.98-08-031 and future modifications; 2) post all detariffed rates, terms and conditions of service on an internet site pursuant to Rule 5.2 of the Telecommunications Industry Rules in General Order (GO) 96-B; and 3) notify customers of higher rates or charges, or more restrictive terms or conditions or withdrawal of service or transfer of owners or customer base pursuant to Rule 5.3 of the Telecommunications Industry Rules in GO 96-B.

Detariffed status is not available for carriers providing residential local exchange service. Based on the application, it does not appear that Wavelength intends to provide residential local exchange service at this time. Pursuant to

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<sup>6</sup> These certifications are required by D.13-05-035, Ordering Paragraph 14.

<sup>7</sup> *Id.*



D.12-12-038, Appendix A, Section II, parts a and b,<sup>8</sup> basic service must be tariffed or scheduled. In the future, if Wavelength decides to offer services that require a tariff or schedule, such as basic service, Wavelength must submit proposed tariffs and/or user guides to the Communications Division via Tier 2 Advice Letters using the GO 96-B advice letter process at least 30 days before initiation of service.

## **8. Map of Service Territory**

To be granted a CPCN for authority to provide competitive local exchange service, an applicant must provide a map of the service territories it proposes to serve.<sup>9</sup> In its Response, Wavelength provided a map of the location of its proposed service territory, in compliance with this requirement.

## **9. Rule 3.1(i) Statement** *(Include for Full Facilities Only)*

Rule 3.1(i) sets forth the requirement that a Wavelength filing an application under Pub. Util. Code § 1001, provide a statement regarding GO 104-A, Section 2. Wavelength states that it is not aware of any reportable matters pursuant to GO 104-A, Section 2. Wavelength, therefore, has nothing to report under this rule.

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<sup>8</sup> D.12-12-038, Appendix A, Section II, parts a and b: a) A basic service provider must file and maintain tariffs or schedules with the Commission by a Tier 2 Advice Letter for its basic service offerings which must include its basic service rates, charges, terms, and conditions; and must make them publicly available. Requirements for customer notice and/or Commission filings for revisions in basic service rates, charges, terms, and/or conditions must be made in accordance with the applicable requirements for tariff filings set forth in General Order 96-B.

b) If a carrier chooses to offer basic service in all or part of its service territory using multiple, different technologies, each type of offering must be tariffed or scheduled with the Commission. This requirement does not extend beyond basic service.

<sup>9</sup> D.95-12-056 at Appendix C, Rule 4.F.

On a going forward basis, though, Wavelength must file all reports required of a public Wavelength under Commission jurisdiction.

**10. Expected Customer Base**

Wavelength provided its estimated customer base for the first and fifth years of operation in Exhibit G of its application. Therefore, Wavelength has complied with this requirement.

**11. Request for Treatment as a Non-dominant Interexchange Carrier**

Wavelength requests treatment as a non-dominant interexchange carrier, which would include exemption from the requirements of Pub. Util Code § 816-830 concerning stocks and security. Wavelength also requests an exemption from Pub. Util. Code § 851, solely for the transfer and encumbrance of utility property in order to secure debt. The Commission detailed its rules regarding exemption of non-dominant carriers in D.85-01-008, and subsequently modified in D.85-07-081 and D.85-11-044. Pursuant to D.85-07-081 and D.85-11-044 (address Non-Dominant Inter-Exchange Carrier (NDIECs)) and D.97-01-015 (address CLECs), NDIECs and CLECs are exempt from Pub. Util. Code § 851 for the sole purpose of the transfer or encumbrance of utility assets to secure debt. We grant Applicant's request for non-dominant interexchange carrier status, which provides an exemption from Pub. Util. Code §§ 816-830 concerning stocks and security, provided Applicant follows all rules detailed in the above referenced decisions. We also grant Applicant's request for exemption from Pub. Util. Code § 851 for the sole purpose of securing debt pursuant to the decisions referenced above.

## 12. ETC Status

### 12.1 Overview

On February 7, 2020, the Federal Communications Commission (FCC) adopted the RDOF program to build broadband in rural and unserved/underserved communities.<sup>10</sup> The RDOF program has a budget of \$20.4 billion over ten years to support infrastructure with minimum broadband speeds of 25/3 Megabits per second (Mbps). The RDOF program is awarding funding in two phases – Phase I targets unserved communities, and Phase II will target partially served communities.<sup>11</sup>

On December 7, 2020, the FCC issued a Public Notice announcing the winning bidders for the RDOF Phase I Auction 904. There were 180 winning bidders nationwide in Auction 904. The award amount totals \$9.23 billion dollars over a 10-year period, with 5,220,833 locations covering 49 states and one territory. Over 99.7% of locations in Auction 904 areas have bidders providing download speeds of at least 100 Mbps.<sup>12</sup> There were 15 companies in California provisionally awarded Phase I amounts totaling \$695 million.<sup>13</sup>

The FCC will also provide oversight of the projects whereby bidders are subject to penalties or forfeiture if they do not meet service milestones.<sup>14</sup> Bidders must meet certain deployment obligations to receive RDOF support. For

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<sup>10</sup> See *In the Matter of Rural Digital Opportunity Fund, Connect America Fund*, Report and Order, WC Dkts. 19-126 & 10-90, (FCC 20-5), released February 7, 2020 (RDOF Order).

<sup>11</sup> *Id.*, at 3.

<sup>12</sup> See *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes, Winning Bidders Announced*, Public Notice, AU Dkt. 20-34, WC Dkts. 19-126 & 10-90, (DA 20-1422), released December 7, 2020.

<sup>13</sup> *Id.*, Attachment B.

<sup>14</sup> RDOF Order, paras. 45-55.

example, carriers must commercially offer voice and broadband services to 40% of the locations receiving RDOF support within each state, as applicable, by the end of the three-year funding cycle, and then 20% of the locations each year thereafter until reaching 100%.<sup>15</sup>

Winning RDOF bidders must obtain an ETC designation in the state(s) where it seeks support to receive federal funding. Wavelength Internet, LLC, (Wavelength) is among the 15 bidders that provisionally won RDOF awards in California. Wavelength must satisfy all federal and state ETC requirements to receive an ETC designation. Staff conducted a due diligence review to determine Wavelength's financial capabilities, technical, and operational capabilities. We find that Wavelength does not meet the substantial operational, financial, and technical capabilities required to construct and operate a broadband and voice telecommunications network serving up to 52,456 new RDOF locations in 7 California counties, with no current operations in the state.<sup>16</sup>

For its RDOF-funded network, Wavelength proposes to use a mix of fixed wireless and optical fiber access network technologies to satisfy the two RDOF service tier requirements (Gigabit and Above Baseline) as mandated by the FCC in RDOF Auction 904 winning bids.<sup>17</sup>

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<sup>15</sup> RDOF Order, para. 45.

<sup>16</sup> See *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes, Winning Bidders Announced*, Public Notice, AU Dkt. 20-34, WC Dkts. 19-126 & 10-90, (DA 20-1422), released December 7, 2020, Attachment A. Winning bidder Interlakes Wireless, LLC assigned the bid to Wavelength, LLC. Also see: California RDOF Map at <https://www.broadbandmap.ca.gov/federalfunding/> The winning bids included counties in Imperial, Inyo, Kern, Los Angeles, Riverside, San Bernadino, and San Diego.

<sup>17</sup> RDOF Order, para. 39.

## **12.2 Financial Capability**

We find that Wavelength is not financially capable of building its proposed network, to be partially funded by RDOF, to 52,456 locations in California. Wavelength won a possible total \$29,131,921 for these locations, or \$555 per location. The FCC's reserve price to build in these locations is estimated at \$325.9 million or \$6,213 per location. As mentioned below, using millimeter-wave spectrum could significantly increase the cost to build the required broadband infrastructure. Thus, without additional financial resources, we are concerned that Wavelength will not be capable of meeting its RDOF obligations to build out to just over 52,000 locations within the 6-year federal requirement.<sup>18</sup> After reviewing Wavelength's filings with the CPUC and the FCC, we found the provider did not post surety instruments, pledges of additional capital investment, or other such guarantees of capital or credit resources to provide reasonable assurance that the proposed network will be built to the required service level and within the timeline required for RDOF.

## **12.3 Operational Capability**

Staff's review also raised concerns about the company's proposed scale of expansion and the scope of its geographical commitment. The company is based in Aberdeen, South Dakota, and the company has no current network facilities in California. From an operational standpoint, this is a significant undertaking that requires a company to have experience and technical knowledge to build a network that is significantly larger than what it currently operates. Moreover, Wavelength's current low staffing level raises concerns about its ability to deploy

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<sup>18</sup> RDOF Order, paras. 45-55.

a broadband network and growing its company to meet its RDOF commitment in another state with significantly more topographic diversity.

#### **12.4 Technical Capability**

Lastly, staff's review of company public filings raises concerns about their proposed use of high-frequency radio spectrum in several bands.<sup>19</sup> Much of Wavelength's proposed RDOF service area has extremely low housing density, and this is more suitable for low-frequency radio spectrum, which enables better propagation characteristics (longer distances, better building penetration). For this reason, fixed wireless relying on millimeter-wave spectrum can be more expensive than deploying optical fiber in low-density areas.

#### **12.5 Public Interest**

Section 214(e)(2) of the Act states that, "[u]pon request and consistent with the public interest, convenience, and necessity, the state commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the state commission" so long as the requesting carrier meets the requirements of Section 214(e)(1).

We have reviewed Wavelength's application and determined that it would not be in the public interest to approve its ETC designation pursuant to RDOF at this time. We have broad authority to review any ETC designation request on a case-by-case basis and grant or deny such designation after considering the local circumstances particular to each application. Based on this authority, we must take into account the ability of each applicant to carry out the RDOF build with

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<sup>19</sup> See Wavelength, LLC, A.21-01-009.

its existing financial, technical, and operational expertise. Moving forward with an applicant that does not meet the RDOF buildout and service requirements would potentially lock-out federal and/or state funding for census geographies for years to those that are most in need of broadband access and would not be in the public interest.

Therefore, as explained above, Wavelength demonstrates insufficient capabilities in the interrelated realms of financial, operational, and technical capacity, and we deny Wavelength's request for an ETC designation at this time.

### **13. Safety Considerations**

With the adoption of the *Safety Policy Statement of the California Public Utilities Commission* on July 10, 2014, the Commission has, among other things, heightened its focus on the potential safety implications of every proceeding. We have considered the potential safety implications here. The Commission is satisfied that Wavelength will meet the Commission's minimum safety goals and expectations of competitive local exchange carriers (CLECs) because:

(1) Wavelength has taken steps to meet the financial requirements as set forth in this decision for a facilities-based CLEC, and (2) Wavelength is a public utility that is required pursuant to Pub. Util. Code § 451 to "... furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities ... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

### **14. Conclusions**

#### **14.1 Wavelength Is Granted A CPCN**

We conclude that the application conforms to our rules for certification as a competitive local exchange carrier. Accordingly, we grant Wavelength a CPCN

to provide full facilities-based and resold competitive local exchange services to offer broadband internet and interconnected VoIP services in the service territory of AT&T and Frontier, subject to compliance with the terms and conditions set forth in the Ordering Paragraphs (OP).

The CPCN granted by this decision provides benefits to Wavelength and corresponding obligations. Wavelength receives authority to operate in the prescribed service territory, and this authority enables Wavelength, pursuant to Section 251 of the 1934 Communications Act, as amended by the 1996 Telecommunications Act (47 U.S.C. § 251), to interconnect with telecommunications carriers.<sup>20</sup> This authority also enables Wavelength to obtain access to public rights-of-way in California as set forth in D.98-10-058, and approved in *T-Mobile West LLC v. City and County of San Francisco*, 6 Cal. 5<sup>th</sup> 1107 (2019)" - subject to the CEQA requirements set forth in this decision.

In return, Wavelength is obligated to comply with all Public Utilities Code provisions, Commission rules, General Orders, and decisions applicable to telephone corporations providing approved services. The applicable statutes, rules, General Orders, and decisions include, but are not limited to consumer protection rules, tariffing, and reporting requirements. Moreover, Wavelength is obligated to pay all Commission prescribed user fees and public purpose program surcharges as set forth in the Appendix B of this decision, to comply with CEQA, and to adhere to Pub. Util. Code § 451 which states that every public Wavelength "...shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in § 54.1 of the Civil Code, as are necessary to

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<sup>20</sup> The California Public Utilities Code uses the term "telephone corporation." Its counterpart in federal law is a "telecommunications carrier."



promote the safety, health, comfort, and convenience of its patrons, employees, and the public.”

#### **14.2 Wavelength is Denied Eligible Telecommunications Carrier Status**

For reasons discussed above, we deny ETC status to Wavelength. We have broad authority to review any ETC designation request on a case-by-case basis and grant or deny such designation after considering the local circumstances particular to each application. We have reviewed Wavelength’s application and determined that it would not be in the public interest to approve their ETC designation pursuant to RDOF at this time.

#### **15. Request to File Under Seal**

On March 24, 2021, Wavelength filed two motions for leave to file under seal: 1) confidential Exhibits E – Estimated Operating and Construction Costs, F – Financial Statements, and G – Estimated Customer Base and Proposed Rates, to A.21-01-009; and 2) Its March 24, 2021 response to ALJ ruling – the confidential RDOF “Long Form” information, which includes information such as financial statements, project funding descriptions, technology and system design descriptions, and letter of credit. Both requests are made pursuant to Rule 11.4(a), GO 66-D, and Pub. Util. Code § 583.

Regarding the confidential versions of Exhibits E, F, and G, Wavelength posits that these exhibits contain highly sensitive information, that if disclosed would enable competitors of Applicant to discern information about Applicant and about Applicants planned deployment that would not otherwise be available.

Regarding the confidential version of the RDOF “Long Form” Wavelength states that: 1) all RDOF-related information treated as confidential by the FCC under the RDOF program; 2) “Trade Secrets” are protected under Pursuant to

California Government Code § 6254(k), “Trade Secrets” are protected; and  
3) Pursuant to California Government Code § 6255(a), the public interest is served by not disclosing the information.

Wavelength represents that the information is sensitive, and disclosure could place Wavelength at an unfair business disadvantage. We have granted similar requests in the past and do so here.

#### **16. Categorization and Need for Hearings**

In Resolution ALJ 176-3479, dated February 11, 2021, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were necessary. On May 5, 2021, the assigned Commissioner issued a scoping memo stating that hearings are not necessary. Therefore, hearings were not held.

#### **17. Comments on Proposed Decision**

The Proposed decision of ALJ Seaneen M. Wilson and ALJ Susan Lee in the matter was mailed to the parties in accordance with Pub. Util. §311 and comments were allowed under Rule 14.3. Comments were filed on \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_ by \_\_\_\_\_.

#### **18. Assignment of Proceeding**

John Reynolds is the assigned Commissioner and Susan Lee and Seaneen M. Wilson are the assigned ALJs in this proceeding.

#### **Findings of Fact**

1. Wavelength is a telephone corporation and a public utility as defined in Pub. Util. Code § 234(a) and § 216(a).
2. Wavelength’s proposed construction activities appear to fall within one or more CEQA categorical exemptions.
3. Wavelength’s authority to provide telecommunications services will not have a significant adverse effect upon the environment.

4. Wavelength has a minimum of \$100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.

5. Wavelength states that no deposits are necessary. Therefore, no additional resources are required at this time to cover deposits..

6. Wavelength's management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.

7. No one associated with or employed by Wavelength as an affiliate, officer, director, partner, agent, or owner (directly or indirectly) of more than 10 percent of Wavelength, or anyone acting in a management capacity for Wavelength:

- (a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of §§ 17000 *et seq.*, §§ 17200 *et seq.*, or §§ 17500 *et seq.* of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; or (g) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; or (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general.

8. To the best of Wavelength's knowledge, neither Wavelength, or any affiliate, officer, director, partner, nor owner of more than 10 percent of Wavelength, or any person acting in such capacity whether or not formally appointed, is being, or has been investigated by the Federal Communications Commission or any law enforcement or regulatory agency for failure to comply with any law, rule or order.

9. Wavelength requested and is eligible for exemption from tariffing requirements and must observe the consumer protection rules adopted in D.98-08-031.

10. Wavelength provided a map of the location of its proposed service territory.

11. Wavelength has no information to report under Rule 3.1(i), which requires that a Wavelength filing an application under Pub. Util. Code § 1001, provide a statement regarding compliance with GO 104-A, Section 2.

12. Wavelength provided an estimate of its customer base for the first and fifth year of operation.

13. Pursuant to Rule 11.4, GO 66-D, and Pub. Util. Code § 583, Wavelength filed motions for leave to file confidential materials under seal, including: 1) confidential Exhibits E – Estimated Operating and Construction Costs, F – Financial Statements, and G – Estimated Customer Base and Proposed Rates, to A.21-01-009; and 2) confidential RDOF “Long Form” information, which includes information such as financial statements, project funding descriptions, technology and system design descriptions, and letter of credit.

14. Granting an ETC designation to Wavelength at this time, is not in the public interest.

**Conclusions of Law**

1. Wavelength should be granted a CPCN to provide full facilities-based and resold competitive local exchange services to offer broadband internet and Interconnected VoIP services, subject to the terms and conditions set forth in the OPs.

2. Wavelength should be allowed to use the Energy Division 21-day CEQA exemption process.

3. Wavelength, once granted a CPCN, should be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

4. Wavelength should be granted an exemption from the requirement to file tariffs.

5. Wavelength's motion to file under seal its Exhibits E, F, and G to the application and its RDOF "Long Form" (March 24, 2021 response to ALJ ruling), should be granted for three years.

6. Wavelength should be granted non-dominant carrier status, subject to Commission rules and regulations as detailed in D.85-01-008 and modified in D.85-07-081 and D.85-11-044.

7. The Commission has authority to grant requests for designation of ETC status, in accordance with the federal delegation of authority set forth in the Act in 47 U.S.C. § 214.

8. The Commission has authority to evaluate whether it is in the public interest to deny an ETC designation to Wavelength after taking into account deficiencies within its existing financial, technical and operational expertise that would affect Wavelength's ability to carry out the RDOF build.

9. Wavelength's request for ETC designation should be denied.

10. This proceeding should be closed.

## O R D E R

### IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Wavelength Internet, LLC to operate as a full-facilities and resold Competitive Local Exchange Carrier and offer broadband internet and interconnected voice-over-internet protocol services, in the service territories of AT&T California and Frontier Communications in California.

2. The request of Wavelength Internet, LLC to be designated as an Eligible Telecommunications Carrier is denied.

3. The corporate identification number assigned to Wavelength Internet, LLC, U-7403-C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

4. Wavelength Internet, LLC must file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this decision. Written acceptance filed in this docket does not reopen the proceeding.

5. The certificate granted by this decision will expire if not exercised within 12 months of the effective date of this decision.

6. Wavelength Internet, LLC must notify the Director of the Communications Division of the date that competitive local exchange service is first rendered to the public, no later than five days after service first begins, by email to [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov).

7. Wavelength Internet, LLC (Wavelength) must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (*i.e.*, there is no termination date on the bond) issued

by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Wavelength must submit a Tier-1 Advice Letter to the Communications Division, containing a copy of the license holder's executed bond, and submit a Tier-1 Advice Letter annually, but not later than March 31 of each year, with a copy of the executed bond.

8. Wavelength Internet, LLC must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

9. In addition to all the requirements applicable to competitive local exchange carriers and interexchange carriers included in Attachments B, C, and D to this decision, Wavelength Internet, LLC is subject to the Consumer Protection Rules contained in General Order 168, and all applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

10. Wavelength Internet, LLC (Wavelength) must report intrastate revenue and pay the resulting public purpose program surcharges specified in Attachment B monthly, through the Commission's proprietary Telecommunications and User Fee Filing System (TUFFS) even if there are no revenues (\$0) and resulting surcharges to report and remit. Communications Division must issue a compliance directive to Wavelength's primary contact, providing directions for reporting and remitting surcharges and the User Fee through the TUFFS system.

11. Wavelength Internet, LLC must pay an annual minimum user fee of \$100 or at the standard user fee remittance rate applied to the gross intrastate revenue, whichever is greater. The standard user fee remittance rate is posted on the Commission's webpage. Under Public Utilities Code § 405, carriers that are in default of reporting and submitting user fees more than 30 days after the quarterly user fee payment due dates of January 15<sup>th</sup>, April 15<sup>th</sup>, July 15<sup>th</sup>, and October 15<sup>th</sup>, or more than 30 days after the January 15<sup>th</sup> due date for those utilities paying the annual minimum user fee of \$100, will be subject to penalties including suspension or revocation of their authority to operate in California.

12. Prior to initiating service, Wavelength Internet, LLC must provide the Commission's Consumer Affairs Branch with the name(s), address(es), e-mail address, and telephone number(s) of its designated contact person(s) for purposes of resolving consumer complaints. This information must be updated if the name(s), address(es), or telephone number(s) change, or at least annually.

13. Prior to initiating service, Wavelength Internet, LLC must provide the Commission's Communications Division with the name(s), address(es), e-mail address, and telephone number(s) of its designated regulatory/official contact person(s). This information must be provided electronically, using the "Communications Wavelength Contact Update Form" found at <http://www.cpuc.ca.gov/communications>. This information must be updated if the name or telephone number changes, or at least annually by June 1 of each calendar year.

14. Wavelength Internet, LLC must submit an affiliate transaction report to the Director of the Communications Division, by email to [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov), in compliance with Decision 93-02-019, on a calendar year basis using the form contained in Attachment D.



15. Wavelength Internet, LLC must submit an annual report to the Director of the Communications Division, by email to [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov), in compliance with General Order 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

16. Wavelength Internet, LLC must submit an application for expanded authority to operate without Non-Dominant InterExchange Carrier status prior to construction of full facilities.

17. The staff of the Commission's Energy Division is authorized to review, process, and act upon Wavelength Internet, LLC's requests for a determination that its full facilities-based construction activities are exempt from the requirements of the California Environmental Quality Act.

18. If Wavelength Internet, LLC (Wavelength) wishes to engage in full facilities-based construction activities and believes that these activities are exempt from California Environmental Quality Act, Wavelength shall first apply to the Commission's Energy Division staff for a determination of exemption from California Environmental Quality Act by providing the Commission's Energy Division (Energy Division) with:

- a. A detailed description of the proposed project, including:
  - i. Customer(s) to be served;
  - ii. The precise location of the proposed construction project; and
  - iii. Regional and local site maps.
- b. A description of the environmental setting, including at a minimum:
  - i. Cultural, historical, and paleontological resources;
  - ii. Biological resources; and
  - iii. Current land use and zoning.

- c. A construction workplan, including:
  - i. Commission Preconstruction Survey Checklist – Archaeological Resources;
  - ii. Commission Preconstruction Survey Checklist – Biological Resources;
  - iii. A detailed schedule of construction activities, including site restoration activities;
  - iv. A description of construction/installation techniques;
  - v. A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
  - vi. A list of permits required for the proposed project.
- d. A statement of the California Environmental Quality Act exemption(s) claimed to apply to the proposed project; and
- e. Documentation supporting the finding of exemption from California Environmental Quality Act.
- f. The Energy Division will then review the submittal and notify Wavelength of either its approval or its denial of Wavelength's claim for exemption from California Environmental Quality Act review within 21 days from the time that Wavelength's submittal is complete.

19. If the Energy Division approves Wavelength Internet, LLC 's (Wavelength) claimed California Environmental Quality Act exemption(s), the staff shall prepare a Notice to Proceed and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research. If the Energy Division disapproves Wavelength's claimed California Environmental Quality Act (CEQA) exemptions, the staff shall issue to Wavelength a letter which states the specific reasons that the claimed CEQA exemptions do not apply to the proposed project.

20. If the Energy Division disapproves Wavelength's claimed California Environmental Quality Act (CEQA) exemption(s), Wavelength Internet, LLC

shall either re-design the specific project and facilities and then reapply for a finding of exemption from CEQA, or file a formal application with the Commission seeking the requisite approval and full CEQA review, before commencing any full facilities-based construction activities.

21. Wavelength Internet, LLC's (Wavelength) motions to file under seal its Exhibits E, F, and G to the application and its RDOF "Long Form" (March 24, 2021 response to ALJ ruling) is granted for a period of three years after the date of this decision. During this three year period, this information shall not be publicly disclosed except on further Commission order or Administrative Law Judge ruling. If Wavelength believes that it is necessary for this information to remain under seal for longer than three years, Wavelength may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

22. Application 21-01-009 is closed.

This decision is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**ATTACHMENT A**  
**Tariff Deficiencies**

**ATTACHMENT A**

**TARIFF DEFICIENCIES**

**This Attachment is Intentionally Left Blank.**

**(END OF ATTACHMENT A)**

**ATTACHMENT B**  
**Requirements Applicable to Competitive Local  
Exchange Carriers and Interexchange Carriers**

**ATTACHMENT B****REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS**

1. Applicant must file, in this docket with reference to this decision number,<sup>1</sup> a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.

2. The certificate granted and the authority to render service under the rates, charges, and rules authorized will expire if not exercised within 12 months of the date of this decision.

3. Applicant is subject to the following fees and surcharges that must be regularly remitted. Per the instructions in Exhibit E to Decision (D.) 00-10-028, carriers authorized to operate in California shall report intrastate revenue and remit the resulting public purpose program surcharges specified as follows monthly, through the Commission's proprietary Telecommunications and User Fee Filing System (TUFFS) even if there is no intrastate revenue (\$0) and resulting surcharges to report and remit. Communications Division shall issue a compliance directive to the carrier's primary contact, providing directions for reporting and remitting surcharges and the User Fee through TUFFS.

- a. The Universal Lifeline Telephone Service Trust  
Administrative Committee Fund (Pub. Util. Code § 277);
- b. The California Relay Service and Communications Devices  
Fund (Pub. Util. Code § 2881; D.98-12-073);
- c. The California High Cost Fund-A (Pub. Util. Code § 275.6);  
D.96-10-066, at 3-4, App. B, Rule 1.C);

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<sup>1</sup>Written acceptance filed in this docket does not reopen the proceeding.

- d. The California High Cost Fund-B (Pub. Util. Code § 276.5), D.96-10-066, at 191, App. B, Rule 6.F.; D.07-12-054);
- e. The California Advanced Services Fund (Pub. Util. Code § 281; D.07-12-054);
- f. The California Teleconnect Fund (Pub. Util. Code § 280; D.96-10-066, at 88, App. B, Rule 8.G);
- g. The User Fee provided in Pub. Util. Code §§ 431-435. The minimum annual User Fee is \$100, as set forth in D.13-05-035.

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant must check the joint tariff for surcharges and fees filed by Pacific Bell Telephone Company (d/b/a AT&T California) and apply the current surcharge and fee amounts in that joint tariff on end-user bills until further revised. Current and historical surcharge rates can be found at <http://www.cpuc.ca.gov/General.aspx?id=1124>.

- i. Carriers must report and remit CPUC telephone program surcharges online using the CPUC TUFFS. Information and instructions for online reporting and payment of surcharges are available at <http://www.cpuc.ca.gov/General.aspx?id=1010>. To request a user ID and password for TUFFS online filing and for questions, please e-mail [Telcosurcharge@cpuc.ca.gov](mailto:Telcosurcharge@cpuc.ca.gov).
- ii. Carriers must submit and pay the PUC User Fee (*see* Item 3.g above) quarterly, through the Commission's TUFFS system within 15 days after the end of each calendar quarter (December 31, March 31, June 30 and September 30) and by the 30<sup>th</sup> day after the 15-day reporting and payment requirement to avoid a one-time 25% penalty. For questions regarding the User Fee, please email [userfees@cpuc.ca.gov](mailto:userfees@cpuc.ca.gov).



4. If Applicant is a competitive local exchange carrier, the effectiveness of its future competitive local exchange carrier tariffs is subject to the requirements of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

5. If Applicant is a non-dominant interexchange carrier, the effectiveness of its future non-dominant interexchange carrier tariffs is subject to the requirement of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

6. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in Item 3 above.

7. Applicant must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (*i.e.*, there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Applicant must submit a Tier-1 Advice Letter to the Communications Division, containing a copy of the license holder's executed bond, and submit a Tier-1 Advice Letter annually, but not later than March 31, with a copy of the executed bond.

8. Applicant must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

9. Applicants providing local exchange service must submit a service area map as part of their initial tariff to the Communications Division.

10. Prior to initiating service, Applicant must provide the Commission's Consumer Affairs Branch with the name(s), address(es), e-mail address(es) and telephone number(s) of its designated contact person(s) for purposes of resolving consumer complaints. This information must be provided electronically, using the "Communications Wavelength Contact Update Form" found at <http://www.cpuc.ca.gov/communications>. This information must be updated if the name(s), address(es), and telephone number(s) change, or at least annually by June 1 of each calendar year.

11. In addition, Applicant must provide the Commission's Communications Division with the name(s), address(es), and telephone number(s) of its designated regulatory/official contact persons(s). This information must be provided electronically, using the "Communications Wavelength Contact Update Form" found at <http://www.cpuc.ca.gov/communications>. This information must be updated if the name(s), address(es), and telephone number(s) change, or at least annually by June 1 of each calendar year.

12. Applicant must notify the Director of the Communications Division, in writing submitted by email to [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov), no later than five days after service first begins, of the date that local exchange service is first rendered to the public.

13. Applicant must keep its books and records in accordance with the Generally Accepted Accounting Principles.

14. In the event Applicant's books and records are required for inspection by the Commission or its staff, it must either produce such records at the Commission's offices or reimburse the Commission for the reasonable costs incurred in having Commission staff travel to its office.

15. Applicant must submit an annual report to the Director of the Communications Division at [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov), in compliance with GO 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

16. Applicant must submit an affiliate transaction report to the Director of the Communications Division at [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov), in compliance with D.93-02-019, on a calendar-year basis using the form contained in Attachment D.

17. Applicant must ensure that its employees comply with the provisions of Pub. Util. Code § 2889.5 regarding solicitation of customers.

18. Within 60 days of the effective date of this order, Applicant must comply with Pub. Util. Code § 708, Employee Identification Cards, and notify the Director of the Communications Division of its compliance in writing, by email to [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov).

19. If Applicant is 90 days or more late in submitting an annual report, or in remitting the surcharges and fee listed in #3 above, and has not received written permission from the Communications Division to file or remit late: the Communications Division must issue a citation pursuant to Resolution T-17601. Failure to comply with the issued citation or timely appeal the citation may result in a revocation of the company's operating authority and/or a referral to the CPUC Consumer Protection and Enforcement Division (CPED) for enforcement action, which could result in additional fines, penalties, or other sanctions.

20. Applicant is exempt from Rule 3.1(b) of the Commission's Rules of Practice and Procedure.

21. Applicant is exempt from Pub. Util. Code §§ 816-830.

22. If Applicant decides to discontinue service or file for bankruptcy, it must immediately notify the Communications Division's Bankruptcy Coordinator.

23. Applicant must send a copy of this decision to concerned local permitting agencies no later than 30 days from the date of this order.

**(END OF ATTACHMENT B)**

**ATTACHMENT C**  
**Annual Report**

**ATTACHMENT C****ANNUAL REPORT**

In addition to the annual reports requirement pursuant to General Order 104-A, submit the following information electronically via email to [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov) no later than March 31st of the year following the calendar year for which the annual report is submitted.

Failure to submit this information on time may result in a penalty as provided for in Pub. Util. Code §§ 2107 and 2108.

Required information:

1. Exact legal name and U # of the reporting Wavelength.
2. Address.
3. Name, title, address, and telephone number of the person to be contacted concerning the reported information.
4. Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
5. Type of organization (*e.g.*, corporation, partnership, sole proprietorship, etc.).  
If incorporated, specify:
  - a. Date of filing articles of incorporation with the Secretary of State.
  - b. State in which incorporated.
6. Number and date of the Commission decision granting the Certificate of Public Convenience and Necessity.
7. Date operations were begun.
8. Description of other business activities in which the Wavelength is engaged.
9. List of all affiliated companies and their relationship to the Wavelength. State if affiliate is a:
  - a. Regulated public Wavelength.
  - b. Publicly held corporation.
10. Balance sheet as of December 31st of the year for which information is submitted.

11. Income statement for California operations for the calendar year for which information is submitted.
12. Cash Flow statement as of December 31st of the calendar year for which information is submitted, for California operations only.

For any questions concerning this report, please send an email to [cdcompliance@cpuca.ca.gov](mailto:cdcompliance@cpuca.ca.gov) with a subject line that includes: "CD Annual Reports."

**(END OF ATTACHMENT C)**

**ATTACHMENT D**  
**Calendar Year Affiliate Transaction Report**



**ATTACHMENT D****CALENDAR YEAR AFFILIATE TRANSACTION REPORT**

Submit the following information electronically via e-mail to [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov) no later than May 1st of the year following the calendar year for which the annual affiliate transaction report is submitted.

1. Each Wavelength must list and provide the following information for each affiliated entity and regulated subsidiary that the Wavelength had during the period covered by the Annual Affiliate Transaction Report.

- Form of organization (*e.g.*, corporation, partnership, joint venture, strategic alliance, etc.);
- Brief description of business activities engaged in;
- Relationship to the Wavelength (*e.g.*, controlling corporation, subsidiary, regulated subsidiary, affiliate);
- Ownership of the Wavelength (including type and percent ownership)
- Voting rights held by the Wavelength and percent; and
- Corporate officers.

2. The Wavelength must prepare and submit a corporate organization chart showing any and all corporate relationships between the Wavelength and its affiliated entities and regulated subsidiaries in #1 above. The chart must have the controlling corporation (if any) at the top of the chart, the Wavelength and any subsidiaries and/or affiliates of the controlling corporation in the middle levels of the chart, and all secondary subsidiaries and affiliates (*e.g.*, a subsidiary that in turn is owned by another subsidiary and/or affiliate) in the lower levels. Any regulated subsidiary must be clearly noted.

3. For a Wavelength that has individuals who are classified as “controlling corporations” of the competitive Wavelength, the Wavelength must only report

under the requirements of #1 and #2 above any affiliated entity that either (a) is a public Wavelength or (b) transacts any business with the Wavelength filing the annual report excluding the provision of tariff services.

4. Each annual report must be signed by a corporate officer of the Wavelength stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

5. Any required material that a Wavelength is unable to provide must be reasonably described and the reasons the data cannot be obtained, as well as the efforts expended to obtain the information, must be set forth in the Wavelength's Annual Affiliate Transaction Report and verified in accordance with Section I-F of Decision 93-02-019.

6. Utilities that do not have affiliated entities must submit, in lieu of the annual transaction report, an annual statement to the Commission stating that the Wavelength had no affiliated entities during the report period. This statement must be signed by a corporate officer of the Wavelength, stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

For any questions concerning this report, please send an e-mail to [cdcompliance@cpuca.ca.gov](mailto:cdcompliance@cpuca.ca.gov) with a subject line that includes: "CD Annual Reports."

**(END OF ATTACHMENT D)**